

104TH CONGRESS
2D SESSION

H. R. 4200

To amend the Internal Revenue Code of 1986 to encourage the cleanup
of contaminated brownfield sites.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 1996

Mrs. JOHNSON of Connecticut introduced the following bill; which was referred
to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to encourage
the cleanup of contaminated brownfield sites.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. EXPENSING OF ENVIRONMENTAL REMEDI-**
4 **ATION COSTS.**

5 (a) IN GENERAL.—Part VI of subchapter B of chap-
6 ter 1 of the Internal Revenue Code of 1986 is amended
7 by adding at the end the following new section:

1 **“SEC. 198. EXPENSING OF ENVIRONMENTAL REMEDIATION**
2 **COSTS.**

3 “(a) IN GENERAL.—A taxpayer may elect to treat
4 any qualified environmental remediation expenditure
5 which is paid or incurred by the taxpayer as an expense
6 which is not chargeable to capital account. Any expendi-
7 ture which is so treated shall be allowed as a deduction
8 for the taxable year in which it is paid or incurred.

9 “(b) QUALIFIED ENVIRONMENTAL REMEDIATION
10 EXPENDITURE.—For purposes of this section—

11 “(1) IN GENERAL.—The term ‘qualified envi-
12 ronmental remediation expenditure’ means any ex-
13 penditure—

14 “(A) which is otherwise chargeable to cap-
15 ital account, and

16 “(B) which is paid or incurred in connec-
17 tion with the abatement or control of hazardous
18 substances at a qualified contaminated site.

19 “(2) SPECIAL RULE FOR EXPENDITURES FOR
20 DEPRECIABLE PROPERTY.—Such term shall not in-
21 clude any expenditure for the acquisition of property
22 of a character subject to the allowance for deprecia-
23 tion which is used in connection with the abatement
24 or control of hazardous substances at a qualified
25 contaminated site; except that the portion of the al-
26 lowance under section 167 for such property which

1 is otherwise allocated to such site shall be treated as
2 a qualified environmental remediation expenditure.

3 “(c) QUALIFIED CONTAMINATED SITE.—For pur-
4 poses of this section—

5 “(1) IN GENERAL.—The term ‘qualified con-
6 taminated site’ means any area—

7 “(A) which is held by the taxpayer for use
8 in a trade or business or for the production of
9 income, or which is property described in sec-
10 tion 1221(1) in the hands of the taxpayer, and

11 “(B) which contains (or potentially con-
12 tains) any hazardous substance.

13 “(2) TAXPAYER MUST RECEIVE STATEMENT
14 FROM STATE ENVIRONMENTAL AGENCY.—An area
15 shall be treated as a qualified contaminated site by
16 reason of a substance described in subparagraph
17 (A), (B), or (C) of subsection (d)(1) only if the tax-
18 payer receives a statement from the appropriate
19 agency of the State in which such area is located
20 that such area meets the requirements of subpara-
21 graph (B) of paragraph (1) of this subsection.

22 “(3) APPROPRIATE STATE AGENCY.— For pur-
23 poses of paragraph (2), the appropriate agency of a
24 State is the agency designated by the Administrator
25 of the Environmental Protection Agency for pur-

1 poses of this section. If no agency of a State is des-
2 ignated under the preceding sentence, the appro-
3 priate agency for such State shall be the Environ-
4 mental Protection Agency.

5 “(d) HAZARDOUS SUBSTANCE.—For purposes of this
6 section—

7 “(1) IN GENERAL.—The term ‘hazardous sub-
8 stance’ means—

9 “(A) any substance which is a hazardous
10 substance as defined in section 101(14) of the
11 Comprehensive Environmental Response, Com-
12 pensation, and Liability Act of 1980,

13 “(B) any substance which is designated as
14 a hazardous substance under section 102 of
15 such Act,

16 “(C) any extremely hazardous substance
17 under the Emergency Planning and Community
18 Right to Know Act of 1986,

19 “(D) asbestos (whether friable or nonfri-
20 able),

21 “(E) radon,

22 “(F) lead paint, and

23 “(G) any petroleum product.

24 “(2) EXCEPTION.—Such term shall not include
25 any substance described in subparagraph (A), (B),

1 (C), or (G) of paragraph (1) with respect to which
2 a removal or remedial action is not permitted under
3 section 104 of the Comprehensive Environmental
4 Response, Compensation, and Liability Act of 1980
5 by reason of subsection (a)(3) thereof.

6 “(e) DEDUCTION RECAPTURED AS ORDINARY IN-
7 COME ON SALE, ETC.—Solely for purposes of section
8 1245, in the case of property to which a qualified environ-
9 mental remediation expenditure would have been capital-
10 ized but for this section—

11 “(1) the deduction allowed by this section for
12 such expenditure shall be treated as a deduction for
13 depreciation, and

14 “(2) such property (if not otherwise section
15 1245 property) shall be treated as section 1245
16 property solely for purposes of applying section 1245
17 to such deduction.

18 “(f) COORDINATION WITH OTHER PROVISIONS.—
19 Sections 280B and 468 shall not apply to amounts which
20 are treated as expenses under this section.

21 “(g) REGULATIONS.—The Secretary shall prescribe
22 such regulations as may be necessary or appropriate to
23 carry out the purposes of this section.”

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for part VI of subchapter B of chapter 1 of such Code
3 is amended by adding at the end the following new item:

“Sec. 198. Expensing of environmental remediation costs.”

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to expenditures paid or incurred
6 after the date of the enactment of this Act, in taxable
7 years ending after such date.

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